

No. 82-1215

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STEVAS,
CLERK

IN THE
Supreme Court of the United States

OCTOBER, TERM, 1982

FREDERICK PAUL,
Petitioner,

v.

THE UNITED STATES

AND

BARRY JACKSON AND THOMAS FENTON,
Petitioner

v.

THE UNITED STATES

ON PETITION FOR
WRIT OF CERTIORARI TO
THE UNITED STATES COURT
OF APPEALS FOR THE
FEDERAL CIRCUIT

**AMICUS BRIEF OF DONALD R. WRIGHT
INDIVIDUALLY AND AS PRESIDENT OF
THE ALASKA FEDERATION OF NATIVES**

David H. Call
1919 Bathrop Street
Drawer 19
Fairbanks, AK 99701
(907)452-2211

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I. THE INTEREST OF AMICUS
CURIAE, DONALD R. WRIGHT

Donald R. Wright, a member of the Neets'Ai Gwitch'In Tribe, an Athapaskan born in Nenana, Alaska, was President of the Cook Inlet Native Association, one of the twelve Alaska Native Regional Associations (1968-1969), and has been President of the Alaska Federation of Natives, an unincorporated association of Alaska Natives, since 1970 (which is not Alaska Federation of Natives, Incorporated, formed by Alaska Native Regional Corporations after the passage of the Alaska Native Claims Settlement Act, P.L. 92-203, 85 Stat. 688, 43 USC §1600 et. seq., hereafter referred to as ANCSA). Presently he is also agent for and consultant to the Native Village of Venetie, the Tribal Government for the Neets'Ai Gwitch'In Tribe.

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As President of the Alaska Federation of Natives, he led the effort to secure a just and equitable settlement of the land claims of the aboriginal peoples of Alaska, from his election as President through December 18, 1971. That settlement, which in large part was dictated by the Alaska Native leadership, was a result of a team effort by the leaders, their attorneys and consultants, with the support of a broad range of lobbying groups, both nationally and within Alaska. And in that effort your petitioners played an invaluable role. Frederick Paul and his associates devoted many thousands of hours on behalf of the Eskimos of the Arctic Slope. Barry Jackson was one of the architects and designers of the settlement, drafting the first comprehensive legislation for the Alaska Federation of

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Natives, including regional and village corporations and the concept of selection by Natives of land to be retained, concepts which were initially developed in consultation with his village clients.

Both Frederick Paul (with his associates) and Barry Jackson performed invaluable services in the culmination, the successful effort to persuade the conference committee to meld the unacceptable House and Senate versions of ANCSA (instead of compromising them) into a version acceptable to Alaska's Native leadership.

Finally, as a further reason for interest, Donald R. Wright was one of the founders of the National Tribal Chairmen's Association.

And so, for these reasons, Donald R. Wright has a past, present and continuing interest in seeing that Alaska

Natives, and Native Americans generally, have effective access to Congress for the redress of grievances, access which cannot be effective without competent counsel.

II. ARGUMENT: THE REASONS WHY DONALD R. WRIGHT BELIEVES THE PETITION FOR CERTIORARI SHOULD BE GRANTED.

Donald R. Wright adopts the views of the other Amicus briefs filed (or expected to be filed) herein by the Tanana Chiefs Conference and the Native Village of Venetie Tribal Government. But your Amicus further submits that the effect of the decision below is pernicious in the extreme, and will effectively deny many Native Americans and others access to Congress.

For example, consider the effect of that decision if an Indian Tribe desires to claim land valued at \$100,000,000.00.

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If the tribal council and their attorneys seek a settlement from Congress, as the Alaskan Federation of Natives did, the attorneys may expect a fee, on the ANCSA scale, of 4/100 of 1% or \$40,000.00 (if our land, with mineral rights, has an average value of only \$100.00 an acre). Yet if they choose to seek redress in the courts for money damages, the attorneys may expect a fee of \$10,000,000.00, certainly at least \$6,000,000.00 (unless Congress, passing an appropriation to pay the judgment or other Congressional act, again expropriates the attorneys fee contracts). In these circumstances, which create an enormous conflict of interest between American Natives and their counsel, Donald R. Wright submits the usual effect will be to bar American Natives from seeking return of their lands by

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Congressional settlement. Yet generally American Natives desire return of their lands, and not money damages.

On another point, the Court below held that petitioners should have filed suit to challenge the constitutionality of ANCSA within one year, as provided by §10 of ANCSA even though, as required by that section, they were not a duly authorized official of the State of Alaska. Petitioners could not have filed such a suit both because legal ethics prohibit an attack on an act they helped prepare and because such a suit would have or might have encouraged others who opposed the settlement to file suit challenging the act, to the detriment of their clients.

Nor, knowing the petitioners, would they have done so in violation of these obvious constrictions. Indeed, even

when it became obvious that Congress would impose a severe limitation on attorney fees under ANCSA, they did not cease or scale down their efforts on behalf of their clients, they increased their efforts to obtain an equitable and just settlement for their clients. As President of the Alaska Federation of Natives, I did not once, in 1970 or 1971, receive a complaint from our attorneys, although we all realized that Congress would not allow them equitable compensation for their efforts. And they did not file such actions, claiming their contracts were not voided, until long after the Act was accepted as generally constitutional.

But neither I nor Native Americans can expect such devotion to our cause in the future unless our counsel can expect to receive at least an equitable

fee. And that is not possible under the decision below.

III. CONCLUSION.

The questions before this Court, as set out in the Petition, fairly present the issues raised, and because of their great importance both to Native Americans and to other Americans who seek to petition Congress for redress of grievances, the undersigned urges this Court to grant certiorari.

DONALD R. WRIGHT, Pro Se
Individually and as President of the
Alaska Federation of Natives